

107 FERC ¶ 61,255
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
Nora Mead Brownell, Joseph T. Kelliher,
and Suedeene G. Kelly.

Arizona Public Service Company	Docket Nos. ER04-442-000 ER04-442-002
El Paso Electric Company	ER04-448-000 ER04-448-001
Idaho Power Company	ER04-437-000
Nevada Power Company and Sierra Pacific	ER04-418-000 ER04-418-002
Public Service Company of New Mexico	ER04-416-000 ER04-416-001
Tucson Electric Power Company and UNS Electric, Inc.	ER04-460-000 ER04-460-001

ORDER ACCEPTING IN PART, REJECTING IN PART, AND MODIFYING IN
PART TARIFF SHEETS MODIFYING PRO FORMA STANDARD LARGE
GENERATOR INTERCONNECTION PROCEDURES AND STANDARD LARGE
GENERATOR INTERCONNECTION AGREEMENT

(Issued June 4, 2004)

I. Introduction

1. Arizona Public Service Company (APS), El Paso Electric Company (EPE), Idaho Power Company (Idaho Power), Nevada Power Company and Sierra Pacific Power Company (jointly, Nevada Companies), Public Service Company of New Mexico

(PNM), and Tucson Electric Power Company and UNS Electric, Inc. (jointly, Tucson) (collectively, Applicants)¹ filed proposed variations from the pro forma Large Generator Interconnection Procedures (LGIP) and Large Generator Interconnection Agreement (LGIA) pursuant to Order No. 2003.² The Applicants state that the proposed variations are based on existing regional reliability standards applicable to the Western Electricity Coordinating Council (WECC),³ the Northwest Power Pool (NWPP),⁴ and the Southwest Reserve Sharing Group (SRSG).⁵ In this order, the Commission accepts in part, rejects in part, and modifies in part the proposed regional reliability variations. This order benefits

¹ “Applicants,” as used in this order, refers to all of the Applicants. Where only some of the Applicants propose a revision, they are identified individually.

² Standardization of Generator Interconnection Agreements and Procedures, Order No. 2003, 68 Fed. Reg. 49,845 (Aug. 19, 2003), FERC Stats. & Regs., Regulations Preambles ¶ 31,146 (2003), order on reh’g, Order No. 2003-A, 106 FERC ¶ 61,220 (2004), reh’g pending; see also Notice Clarifying Compliance Procedures, 106 FERC ¶ 61,009 (2004).

Tucson's filing also proposes regional reliability variations pursuant to Order No. 2003-A. The other Applicants have also proposed additional regional reliability variations pursuant to Order No. 2003-A, in separate filings which will be addressed in other orders.

³ The Applicants are members of the WECC.

⁴ The Nevada Companies state that the NWPP operates its system in accordance with the WECC Minimum Operating Reliability Criteria. The NWPP area comprises all or portions of the states of Washington, Oregon, Idaho, Wyoming, Montana, Nevada, Utah, Northern California, and the Canadian Provinces of British Columbia and Alberta. Idaho Power and Sierra Pacific Power Company are members of the NWPP.

⁵ The SRSG is a group of several southwest jurisdictional and non-jurisdictional transmission providers that have entered into a reciprocal use reserve sharing pool agreement to reduce individual operating reserve requirements. The Commission conditionally accepted the SRSG Participation Agreement (SRSG Agreement) for filing by order issued on June 25, 1998. See Southwest Reserve Sharing Group, 83 FERC ¶ 61,314 (1998), order on reh’g, 95 FERC ¶ 61,071 (2001) (SRSG). APS, EPE, the Nevada Companies, PNM, and Tucson are members of the SRSG.

customers because it provides just and reasonable terms and conditions of transmission service while ensuring that reliability is protected.

II. Background

2. In Order No. 2003, pursuant to its responsibility under sections 205 and 206 of the Federal Power Act (FPA) to remedy undue discrimination, the Commission required all public utilities that own, control, or operate facilities for transmitting electric energy in interstate commerce to append to their open access transmission tariffs (OATT) a pro forma LGIP and pro forma LGIA. In order to achieve greater standardization of interconnection terms and conditions, Order No. 2003 required such public utilities to file revised OATTs containing the pro forma LGIP and LGIA by January 20, 2004.⁶ The Commission left it to Transmission Providers⁷ to justify any variation to the pro forma LGIP or LGIA based on regional reliability requirements.⁸

3. The Applicants submitted their filings on January 20, 2004. Nevada Companies completed their filing on January 21, 2004.⁹

4. In response to letters from the Director, Division of Tariffs and Market Development-West (Director) informing them that their filings were deficient, APS and EPE amended their respective filings on April 22, 2004, Nevada Companies and PNM amended their respective filings on April 23, 2004, and Tucson amended its filing, with tariff sheets, on May 5, 2004.¹⁰

⁶ See Notice Clarifying Compliance Procedures, supra note 2 (clarifying that Commission will deem OATTs of non-independent public utilities to be revised as of January 20, 2004).

⁷ The “Transmission Provider” is the entity with which the Generating Facility is interconnecting. The term “Generating Facility” means the specific device (having a capacity of more than 20 megawatts) for which the interconnection customer has requested interconnection. The owner of the Generating Facility is referred to as the “interconnection customer.”

⁸ See Order No. 2003 at P 826.

⁹ They inadvertently omitted two compact disks from their January 20, 2004 filing.

¹⁰ The Director did not issue a deficiency letter to Idaho Power.

III. Compliance Filings

5. According to the Applicants, the proposed variations from the pro forma provisions are based upon existing regional reliability standards applicable to the WECC, SRSG, or the NWPP.

A. Proposed modifications to both the LGIA and LGIP

6. Section 1 (Definitions)¹¹ of the pro forma LGIP and article 1 (Definitions) of the pro forma LGIA define “Applicable Reliability Standards” as the requirements and guidelines of the North American Electric Reliability Council (NERC), the Applicable Reliability Council, and the Control Area of the Transmission System to which the Generating Facility is directly interconnected. APS, EPE, Nevada Companies, PNM, and Tucson propose to include the SRSG in the definition of applicable reliability standards, stating that the SRSG Agreement has been previously accepted by the Commission. Additionally, they assert that ten Transmission Providers in the Southwest region of the country are abiding by the SRSG principles and that the principles contained therein are consistent with WECC practices. Therefore, they contend that the SRSG principles constitute a regional reliability practice.

7. Section 1 of Nevada Companies' modified LGIP and article 1 of Nevada Companies' modified LGIA include the addition of “Applicable Reserve Sharing Group” to the list of definitions. The definition states that Nevada Power participate in the SRSG and Sierra Pacific participates in the NWPP. Nevada Companies state that this will clarify that they participate in more than one reserve sharing group and will allow them the flexibility to refer to the appropriate group as required.

8. Section 1 of Nevada Companies' modified LGIP and article 1 of Nevada Companies' modified LGIA include the addition of “Northwest Power Pool” to the list of definitions. Nevada Companies propose to define the Northwest Power Pool as the Control Area operators within the Northwest interconnected area who have executed a participation agreement, accepted for filing by the Commission, under which the Control Area operators have agreed to and adopted a reserve sharing program to meet their reserve requirements set forth by NERC and the WECC. Nevada Companies state that

¹¹ Section 1 of the pro forma LGIP and article 1 of the pro forma LGIA contain definitions that are not numbered. APS, Nevada Power, PNM, and Tucson have numbered each definition (e.g., 1.8, 1.67, etc.).

the members of the NWPP abide by the reserve sharing principles in the agreement, which sets forth the regional reliability standards to be followed by the members.

9. APS, Nevada Companies, PNM, and Tucson propose to include a new term, “Reliability Management System” (RMS), in section 1 and article 1 of their modified LGIPs and LGIAs. They propose to define RMS as the WECC’s reliability criteria, agreements, data collection requirements and terms and conditions set forth in the WECC’s reliability compliance programs and agreements as in effect from time to time. APS, PNM and Tucson assert that most significant Transmission Providers located in the Western region of the country are members of the WECC and adhere to the requirements of the RMS.

10. APS, Nevada Companies, PNM, and Tucson propose to include a new term, “Southwest Reserve Sharing Group” (SRSG), in section 1 and article 1 of their modified LGIPs and LGIAs. They propose to define SRSG as a group that has executed a participation agreement, accepted for filing by the Commission, under which the participating parties, in conjunction with one another, pool certain generating resources to meet their reserve requirements set forth by NERC and the WECC. They further state that each member must abide by the reserve principles contained within the SRSG Agreement, and therefore, the SRSG Agreement requires each member to conform to a regional reliability standard.

11. APS, Nevada Companies, PNM, and Tucson propose to include a new term “WECC” in section 1 and article 1 of their modified LGIPs and LGIAs. The utilities supporting this addition propose to define the WECC as the Western Electricity Coordinating Council, or any successor of this organization. The Applicants supporting this addition state that the WECC is a regional coordinating council operating as a part of NERC. Further, they state that the WECC sets forth a number of reliability criteria and standards that most Western region Transmission Providers who are members of the WECC follow.

B. Proposed modifications to the LGIP

12. Section 2.3 (Base Case Data) of the pro forma LGIP requires that Transmission Providers provide certain data while processing an interconnection request for a large generating facility. Specifically, the Transmission Provider must provide base power flow, short circuit and stability databases, including all underlying assumptions and contingency lists upon request subject to confidentiality provisions. APS, EPE, Nevada Companies, PNM, and Tucson propose an addition to this provision to clarify that the data shall be developed in accordance with the applicable reliability council policies. The Applicants assert that this will ensure that interconnection customers understand how

base case data will be developed. APS, EPE, Nevada Companies, PNM, and Tucson contend that this revision is supported by the WECC's Planning Coordination Committee Handbook (Handbook) at pages III-3, III-4, III-5, III-6, III-7, III-9, III-10, and III-11.

13. Section 4.4.5 (Modifications to the Request) of the pro forma LGIP provides guidance on construction sequencing. It provides that extensions of less than three (3) cumulative years in the Commercial Operation Date of the Large Generating Facility to which the Interconnection Request relates are not material and should be handled through construction sequencing. Idaho Power and EPE state that as members of the WECC, they must abide by the WECC's procedures for regional planning project review and rating transmission facilities standards. Idaho Power and EPE also state that in accordance with these standards, when a member of the WECC has a delay in meeting project milestones by 12 months or more, the WECC may require an additional study of that project to be performed. The Applicants propose to include additional language that provides that extensions may necessitate a determination of whether additional studies are required pursuant to Applicable Laws and Regulations and Applicable Reliability Standards. The Applicants assert that this modification would provide flexibility to the customer while conforming to the applicable reliability standards of the WECC. Idaho Power further contends that this revision is supported by the WECC's Procedures for Regional Planning Project Review and Rating Transmission Facilities, section 4, page 18.

14. Section 13.1 (Confidentiality) of the pro forma LGIP describes what constitutes confidential information, the process for designating confidential material, and the basis for asserting that certain information should receive confidential treatment. EPE proposes to add language to section 13.1 that states that the release of confidential information shall be subject to the applicable laws and regulations and applicable reliability standards. EPE asserts that this is necessitated by the WECC's requirement that non-members receiving certain data execute confidentiality agreements pertinent to that data.

15. The Applicants, except Idaho Power, propose to add language that allows the Transmission Provider to perform study work using WECC data (power flow, stability, and disturbance monitoring data) for non-members, provided that the WECC data are not given to the non-member. Under such arrangements, the non-members would be permitted to view the data in the Transmission Provider's office to gain an understanding of the study results, but they would not be permitted to have the data or copy the data. The interconnection customer must also sign the WECC Non-member Confidentiality Agreement in accordance with regional reliability council policies. The Applicants that support this additional language assert that these are regional practices set forth by the Applicable Reliability Council. They further assert that this language clarifies that the interconnection customer must execute the Confidentiality Agreement and sets forth what

data are eligible for distribution according to WECC policies. APS, EPE, Nevada Companies, PNM, and Tucson contend that this revision is supported by the WECC's Handbook pages III-3, III-6, III-7, III-9, III-10, and III-11.

C. Proposed modifications to the LGIA

16. Article 5.2.2 (General Conditions Applicable to Option to Build) of the pro forma LGIA sets forth specific construction and engineering practices. Specifically, article 5.2.2 provides that the interconnection customer's engineering, procurement and construction of the Transmission Provider's Interconnection Facilities and stand-alone network upgrades shall comply with all applicable legal requirements to which the Transmission Provider would be subject in the engineering, procurement or construction of the Transmission Provider's interconnection facilities and stand-alone network upgrades. APS, Nevada Companies, PNM, and Tucson propose to revise the pro forma provision to provide that in addition to complying with the legal requirements, the engineering and construction practices must also comply with the Applicable Reliability Standards. APS, Nevada Companies, PNM, and Tucson assert that this language would clarify that the interconnection customer's engineering and construction practices must also conform to those reliability standards practiced within the applicable region. APS, Nevada Companies, PNM, and Tucson contend that this revision is supported by the WECC's Handbook, Section III, Appendix A, pages III-75 through III-77.¹²

17. Article 5.19.2 (Modification Standards) of the pro forma LGIA provides that any additions, modifications, or replacements made to a party's facilities shall be designed, constructed and operated in accordance with this LGIA and Good Utility Practice. APS, Nevada Companies, PNM, and Tucson propose that any additions, modifications, or replacements made to a party's facilities shall be designed, constructed and operated in accordance with applicable reliability standards as well as the LGIA and Good Utility Practice. APS, Nevada Companies, PNM, and Tucson contend that this revision is supported by the WECC's Handbook, Section III, Appendix A, pages III-75 through III-77.¹³

¹² Additionally, PNM cites the WECC's Handbook, Section III, Appendix A, pages III-78 and III-79.

¹³ Additionally, PNM cites the WECC's Handbook, Section III, Appendix A, pages III-78 and III-79.

18. Article 22.1 (Confidentiality) of the pro forma LGIA is identical to section 13.1 of the pro forma LGIP.¹⁴ EPE proposes to include the same language in article 22.1 of its LGIA that it has proposed to include in section 13.1 of its LGIP.

19. Article 30.3 (Rules of Interpretation) of the pro forma LGIA sets forth the Rules of Interpretation. Nevada Companies propose to insert additional language to clarify that appendices to the LGIA are incorporated into and are deemed to be part of the LGIA.

20. APS, EPE, Idaho Power, Nevada Companies, PNM propose to add Appendix A of the WECC's RMS Agreement as an Appendix G to the LGIA. Idaho Power states that Appendix A of the RMS Agreement sets forth regional reliability standards observed throughout the WECC by interconnection customers. Additionally, Idaho Power asserts that it has previously executed an RMS Agreement with the WECC that obligates Idaho Power and its interconnection customers to follow WECC reliability criteria.¹⁵ Idaho Power states that it has adopted the RMS Agreement provisions verbatim with the exception of a few stylistic changes.

21. In addition, the following revisions have been proposed. APS, Nevada Companies, PNM, and Tucson propose to number the definitions in section 1 of the LGIP and article 1 of the LGIA. APS, PNM, and Tucson propose to replace "Transmission Provider" with their respective names throughout the text. Nevada Companies propose multiple editorial-type changes to the pro forma text. EPE proposes a preamble statement on the first page of the LGIP and the LGIA that states that to the extent a conflict arises between the tariff and the LGIP/LGIA, the terms and conditions of the LGIP/LGIA would be controlling.

IV. Notices and Responsive Pleadings

22. Notices of APS's, EPE's, Idaho Power's, PNM's and Tucson's January 20, 2004 filings were published in the Federal Register,¹⁶ with motions to intervene or protests due

¹⁴ See supra P 14-15.

¹⁵ The RMS Agreement between Idaho Power and the WECC was accepted for filing in 1999, in Docket No. ER99-3396-000. Unpublished Delegated Director Letter Order of July 29, 1999.

¹⁶ 69 Fed. Reg. 5849 (2004), 69 Fed. Reg. 5850 (2004), 69 Fed. Reg. 5849 (2004), 69 Fed. Reg. 5530 (2004), 69 Fed. Reg. 5851 (2004), respectively.

on or before February 10, 2004. In each of those dockets, Sempra Energy Resources (Sempra) filed a motion to intervene, raising no substantive issues.

23. Notice of Nevada Companies' January 20, 2004 filing was published in the Federal Register,¹⁷ with motions to intervene or protests due on or before February 11, 2004. Motions to intervene, raising no substantive issues, were filed by Sempra and Calpine Corporation. The Nevada Independent Energy Coalition (NIEC) filed a motion to intervene and protest. NIEC contends that Order No. 2003 did not address several provisions advocated by cogeneration interests and that they should be addressed in Nevada Companies' interconnection rules. First, NEIC asserts that a generator should "retain the benefits and queue position of its existing facilities" when it modifies a plant. Second, NEIC asserts that the interconnection rules should recognize that cogeneration has unique operating characteristics. It asserts that the co-generator may serve load behind the point of interconnection and that specific load should not be subject to metering or other operational restrictions.

24. Notices of APS's, EPE's, Nevada Companies', and PNM's deficiency responses were published in the Federal Register,¹⁸ with motions to intervene or protests due on or before May 13, 2004 and May 14, 2004. None were filed.

25. Notice of Tucson's deficiency response was published in the Federal Register,¹⁹ with motions to intervene or protests due on or before May 26, 2004. None were filed.

V. Discussion

A. Procedural Matters

Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure,²⁰ the timely, unopposed motions to intervene serve to make those who filed them parties to this proceeding.

¹⁷ 69 Fed. Reg. 5848 (2004).

¹⁸ 69 Fed. Reg. 25,381 (2004), 69 Fed. Reg. 25,074 (2004).

¹⁹ 69 Fed. Reg. 29,294 (2004)

²⁰ 18 C.F.R. § 385.214 (2003).

B. Substantive Matters

26. The Commission intends to supplement rather than supplant the work that regional reliability groups have already undertaken regarding interconnection. Accordingly, a Transmission Provider, on compliance, may offer variations based on existing regional reliability requirements. The Transmission Provider must show that each proposed variation from the pro forma provisions is in response to established (i.e., approved by the Applicable Reliability Council) reliability requirements.²¹

27. We will accept the proposed variations to sections 2.3, 4.4.5 and 13.1 of the LGIP. In addition, we will accept the proposed variations to articles 5.2.2, 5.19.2 and 22.1 of the LGIA. Those proposed variations have been sufficiently supported by existing regional reliability standards.

28. We will accept the proposal to include Appendix A of the RMS, verbatim, as an appendix to the LGIA. However, we will require that it be placed in Appendix H of the LGIA rather than Appendix G, because Appendix G is already designated.²² This proposed variation to the pro forma provisions has been adequately supported by existing regional reliability standards.

29. We will reject the following proposed revisions: (1) the numbering of the definitions contained in section 1 of the LGIP and article 1 of the LGIA by APS, Nevada Companies, PNM, and Tucson, (2) the substitution of "Transmission Provider" with APS's, PNM's, and Tucson's respective names throughout the text, (3) Nevada Companies' multiple editorial-type changes to the pro forma text, (4) Nevada Companies' revision to article 30.3, (5) EPE's preamble statement, and (6) the proposed definitions in section 1 of the LGIP and article 1 of the LGIA. These proposed changes have not been supported by existing regional reliability standards.

²¹ See Order No. 2003 at P 823-24, 826.

²² See Order No. 2003-A at Appendix G to Appendix 6 (LGIA). The requirements for generators relying on newer technologies, e.g., wind generators, would be located in Appendix G to the LGIA.

30. NIEC raises arguments, concerning its dissatisfaction with the rulemaking, which should have been raised on rehearing of Order No. 2003 and 2003-A. Thus, we reject them as an impermissible collateral attack on Order Nos. 2003 and 2003-A.²³

31. PNM proposes to delete Attachment J (its existing interconnection procedures) and replace it with the revised LGIP and LGIA. Similarly, APS proposes to delete Attachment M (current interconnection procedures) from its OATT, and the Nevada Companies propose to delete Part V from their OATT (current interconnection procedures). It appears that these changes would leave no interconnection procedures in place for these public utilities with respect to small generators (20 MW and below). Changes to procedures for interconnections to small generators are beyond the scope of Order No. 2003, and, therefore, we reject them. The Commission is currently reviewing comments to a proposed rule for interconnection procedures and an agreement applicable to small generators.²⁴ In the meantime, the Applicants' existing procedures (i.e., those procedures in effect prior to their compliance filings in this proceeding) should remain in effect and be applicable only to interconnections to small generators (any energy resource having a capacity of no larger than 20 MW, or the owner of such a resource) that seek to interconnect to them.

The Commission orders:

(A) The Applicants' proposed variations concerning their LGIPs and LGIAs are hereby accepted in part and rejected in part, as discussed in the body of this order. The accepted provisions are effective January 20, 2004.

²³ See, e.g., Dighton Power Associates Limited Partnership v. ISO New England, Inc., 95 FERC ¶ 61,251 at 61,873, reh'g denied, 96 FERC ¶ 61,091 (2001).

²⁴ See Standardization of Small Generator Interconnection Agreements and Procedures, Notice of Proposed Rulemaking, 68 Fed. Reg. 49,974 (Aug. 19, 2003), FERC Stats. & Regs. ¶ 32,572 (2003).

(B) APS, EPE, Idaho Power, Nevada Companies, PNM and Tucson are hereby directed to submit revised tariff sheets (2003-A pro forma) within 30 days of the date of this order, incorporating the accepted variations, and deleting the rejected variations, from the pro forma LGIP and LGIA, as discussed in the body of this order.

By the Commission.

(S E A L)

Linda Mitry,
Acting Secretary.